

**IN THE UNITED STATES DISTRICT COURT FOR THE E
ASTERN DISTRICT OF TENNESSEE WESTERN DIVISION
AT JACKSON**

**Kimberley Cupples,
Plaintiff,**

vs.

No.: 2:22-cv-2482

**Unum Life Insurance Company of America,

Defendants.**

COMPLAINT

COMES NOW your plaintiff, Kimberly Cupples, and by and through counsel and sues the defendants Unum Life Insurance Company of America, and for cause states and shows to this Honorable Court as follows:

1. The plaintiff is a resident of Jackson, Madison County, Tennessee.
2. That at all times herein mentioned, Unum Life Insurance Company of America is an insurance company with its principal place of business in the State of Maine. The defendant is authorized to do and doing business in the State of Tennessee. The policy which is the subject of this litigation was written and entered into in the State of Tennessee. The defendant's agent for service of process is the Tennessee Commissioner of Insurance;
3. This Court has jurisdiction pursuant to 28 USC § 1332(a). There is diversity of

citizenship between the parties and the amount in controversy exceeds \$100,000.00. Therefore, diversity exists in this cause of action. Moreover, this Court has jurisdiction by virtue of the Employee Retirement and Income Security Act of 1974;

4. This is a civil action to recover long-term disability benefits pursuant to Section 502 of the Employee Retirement Income Security Act of 1974 (herein ERISA);

5. The plaintiff, by virtue of his employment with Coram-CBS was provided a long-term disability policy with the defendants. The claim number is 18125513 and 135038;

6. On January 29, 2020, the plaintiff applied for long-term and short-term disability benefits under this policy due to numerous medical disabilities, including but not limited to, syncope, migraines, photophobia and severe cervical spinal defects;

7. The Plaintiff was initially approved for Long Term Benefits; however, they were terminated on December 23, 2021;

8. On February 7, 2022, the plaintiff timely appealed the decision;

9. On February 9, 2022, the defendant wrote the plaintiff a letter acknowledging an appeal of denial of his application for short-term and long-term disability benefits;

10. On or about May 10, 2022, the defendant requested additional time to review the file as well as for additional medical records;

12. On or about June 17, 2022, the defendant wrote a letter to the plaintiff affirming the decision to deny her application for disability benefits;

13. The plaintiff has been **"DISABLED"** pursuant to the terms of the policy and eligible for disability benefits since the termination date due to the medical conditions from which she suffers;

14. The plaintiff has appealed all administrative denials and has exhausted

administrative remedies. The letter dated June 17, 2022 states: "If you disagree with this decision, you have a right to bring a civil suit under section 502 (a)...."

15. The plaintiff's condition renders her **"DISABLED"** as defined under **"DEFINITION OF DISABILITY"** under the group policy which is the subject of this litigation;

16. The defendant has failed to pay benefits for said policy and plans of benefits currently amounting to 66 2/3 of her gross income for each month she is unable to engage in substantial gainful activity;

17. There will be additional benefits accruing after filing this lawsuit as the plaintiff remains disabled;

18. The defendant's denial of disability benefits is arbitrary and capricious as defined by the Sixth Circuit case law governing ERISA claims.

WHEREFORE, the plaintiff prays for judgment against the defendant for all approved benefits, for any months she is disabled under the policy, for prejudgment and post-judgment interest, for future benefits, for attorney fees, discretionary cost and any other relief the Court deems just and proper under the circumstances pursuant to 502(a)(1)(B) or in the alternative 502(a)(3).

Respectfully submitted,

/s/ John E. Dunlap
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